

NORTH CAROLINA

CABARRUS COUNTY

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION

20 R 251

IN RE:

CORONAVIRUS  
(COVID-19)

ADMINISTRATIVE ORDER  
(Safety Order)  
20-15

The undersigned Senior Resident Superior Court Judge for Judicial District 19A enters this administrative order pursuant to the inherent powers of his office and the Emergency Directives of the North Carolina Chief Justice's orders entered on March 13, 2020, April 2, 2020, and May 21, 2020.

INTRODUCTION

In response to the COVID-19 pandemic, the Governor of North Carolina declared a state of emergency in North Carolina on March 10, 2020. On March 11, 2020, the undersigned Senior Resident Superior Court Judge and Chief District Court Judge jointly entered Administrative Order 20-4 that, among other things, eased the requirement of attendance at the courthouse of individuals who are over the age of 65, have underlying health conditions, and who are ill.

On March 23, the Chief Justice of North Carolina entered an order that provided two Emergency Directives that ordered that all cases, with some exceptions, be continued for 30 days and limited access to courthouses of those who have or may have been exposed to the virus. On April 2, 2020, the Chief Justice entered an additional order containing revised Emergency Directives 1 and 2 plus Emergency Directives 3 through 8. Finally, on May 21, 2020, the Chief Justice entered her latest order containing Emergency Directives 9 through 16. The Chief Justice's Emergency Directives are incorporated herein by reference and shall be followed.

The undersigned Senior Resident Superior Court Judge and Chief District Court Judge of Judicial District 19A have entered several administrative orders, either jointly or individually in their official capacities, responsive to the Chief Justice's Emergency Directives. These orders are incorporated herein by reference and shall be followed excepted those that have been modified herein or by other orders of the court.

The Chief Justice's latest order (May 21, 2020) provides that "catastrophic conditions resulting from the COVID-19 outbreak have existed and continue to exist in all counties of this state." N.C.G.S. 7A-39(b)(2). Further, the order makes the Senior Resident Superior Court Judge or his designee the COVID-19 Coordinator for Judicial District 19A (Cabarrus County) and tasks each COVID-19 Coordinator with certain responsibilities in implementing the Chief Justice's Emergency Directives.

The undersigned shall serve as the COVID-19 Coordinator for Judicial District 19A and intends to fulfill this responsibility by working collaboratively with courthouse leaders, courthouse employees, county personnel, the local bar, local law enforcement, probation, magistrates, and the Cabarrus Health Alliance – as we have done throughout the pandemic – to protect legal rights, public health, and public safety. This Order provides the framework for court operations going forward and the implementation of the Chief Justice’s Emergency Directives. Additional administrative orders entered by the Senior Resident Superior Court Judge or Chief District Court Judge shall address the procedures in their respective courts. Given the nature of the state of emergency, these orders cannot be complete in every detail. We shall have to work collaboratively to address unforeseen difficulties. Nothing herein is intended to usurp the constitutional or statutory responsibilities of the visiting Superior Court Judges, the Chief District Court Judge, the Judges of the District Court, the District Attorney, the Clerk of Superior Court, law enforcement, or the professional responsibilities of counsel.

NOW, THEREFORE, IT IS ORDERED that:

- I. Emergency Directive 9 implementation:
  - A. The superior court and district court shall eliminate large calendar calls to avoid “mass gathering events.”
  - B. The superior court and district court both shall conduct remotely as many proceedings as are possible, appropriate, and authorized by law. This includes initial appearances, considering conditions of release, first appearances, and inpatient commitments. When possible, the court shall accept remote pleas in superior court and district court and pleas by waiver in the district court. Absent good cause, no inmates shall be brought into the courtroom. Anyone seeking that an inmate to be brought into the courtroom shall provide reasonable notice in writing to the presiding judge to consider the issue. Absent extraordinary circumstances, reasonable notice shall not be less than 24 hours’ notice. Our courts will make the best use of the limited technology available and are seeking assistance in expanding our technological options.
  - C. Absent good cause, our courts will also address civil matters remotely. The procedures and best practices in the various courts will be addressed in a separate order with the understanding that the Chief Justice has directed that our local courts are “to make use of remote hearing technology to the greatest extent possible.”
  - D. Absent good cause, lawyers practicing before the courts in Judicial District 19A shall have an email address that he or she checks regularly, have an electronic device that has a camera, microphone and internet connections (a smartphone, tablet or computer), and be familiar with the basic use of videoconferencing with WebEx and Microsoft Teams. This technology and

its use are essential in this pandemic and necessary for the court to fulfill its obligation "to make use of remote hearing technology to the greatest extent possible to limit in-person appearances." Emergency Directive 9. Anyone needing technical assistance can consult with the undersigned. Counsel who has not regularly received email from our courts should submit their email address to the superior court and district court chambers on or before June 1, 2020.

- II. Emergency Directive 10 implementation:
  - A. No jury trials shall be conducted in superior court or district court until permitted by order of the Chief Justice.
  - B. Selection of the Grand Jury shall be addressed by an additional order of this Court.
- III. Emergency Directive 11 Implementation. The undersigned shall serve as the COVID-19 Coordinator. The duties of implementation of this Order shall be delegated as provided herein.
- IV. Emergency Directive 11 implementation:
  - A. All persons in the courthouse should practice safe social distancing. This includes all areas of the courthouse – including the courtrooms. Lawyers shall not review transcripts or other documents immediately beside their clients. If additional consultations are needed, the case shall be rescheduled so that the transcript can be completed via video conference. No one shall crowd the clerks or step into the clerk's work area. Files can be reviewed before court in the Clerk's office in the public area.
  - B. Everyone should comply with reasonable requests to provide personal space. Anyone refusing to provide reasonable personal space to another upon a direct request of a courthouse employee or officer of the Court shall be immediately removed from the courthouse. Failure to provide reasonable personal space upon request by a courthouse employee or officer of the Court may be addressed as contempt of court.
  - C. Each person should take personal responsibility in assuring that proper social distancing is always practiced in the courthouse in all areas.
  - D. The courtrooms and lobbies have been marked where seating is permissible. It is intended that individuals seated behind the bar and in the jury box have six feet of space in every direction. The capacities of same are listed below. Areas where individuals are to stand waiting in line are also marked, although the same should be kept to a minimum.

- E. Maximum capacity of courtrooms, jury rooms, lobbies, breakrooms, and the mailroom have been marked and shall be followed. The posted signs listing maximums throughout the courthouse are for the audience in the courtrooms and for the room total for other spaces. The maximum capacities of these spaces are as follows:
1. Courtroom 1: Audience 27; Jury Box 3, Jury Room 4.
  2. Courtroom 2: Audience 29, Jury Box 4, Jury Room 4.
  3. Courtroom 3: Audience 10, Jury Box 3, Jury Room 4.
  4. Courtroom 4: Audience 10, Jury Box 3, Jury Room 4.
  5. Courtroom 5: Audience 17, Jury Box 3, Jury Room 4
  6. Courtroom 6: Audience 10, Jury Box 3, Jury Room N/A
  7. Magistrate Courtroom: Audience 12, Jury Box N/A, Jury Room N/A
  8. Second Floor Lobby: Seated 12
  9. Third Floor Lobby: Seated 8
  10. Clerk's Civil Breakroom: 2
  11. Clerk's Criminal Breakroom: 2
  12. Mailroom: 3
  13. Clerk's Conference Room: 4
  14. Bookkeeping Cashier: 3
  15. Lawyers' Lounge: 4
  16. Jury Assembly Room: 6
  17. Grand Jury Room: 6
- F. The undersigned delegates to the presiding judges and courtroom bailiffs the responsibility mandating that social distancing occurs in and maximum capacities are not exceeded in the courtrooms. The bailiffs are responsible to see that social distancing occurs in and maximum capacities are not exceeded in the lobbies and lawyers' lounge. The Clerk or his designee(s) are responsible to see that social distancing occurs in and maximum capacities are not exceeded in areas within the Clerk's office.
- G. The County shall assist in ensuring that hand sanitizer is available at the entry and exit of the facility, the courtrooms, and the reception counters where the public interacts with the clerks.
- H. The County shall assist ensuring that the building is cleaned daily and that high touch areas such as door handles, water fountains, handrails, elevator walls and buttons, bathroom faucets and dispensers, and reception counters are cleaned periodically throughout each business day.
- I. The County has erected barriers in various courthouse spaces.
- V. Emergency Directive 13 implementation:

- A. The undersigned, the Chief District Court Judge, and the District Attorney shall continue to use our best efforts and work together to plan sessions so that individuals will not be “sitting or standing in close proximity and/or for extended periods of time in contravention of current public health guidance.” Reducing crowded courtrooms involve, among other things, the interplay between the number of cases scheduled and the ability to schedule events at specific times during the various sessions of court. A difficulty in executing plans for scheduling is the court lacks the ability to communicate immediately with many people attending court sessions. The court lacks email addresses and telephone numbers for most – if not nearly all – parties to criminal cases. Despite these challenges, the court will continue to do its best to avoid crowding and address the problem immediately if it arises.
- B. The Chief District Court Judge is responsible for the District Court calendars and shall use her best efforts to prevent overcrowding in district court matters and addressing overcrowding when it occurs. While the District Attorney retains calendaring authority, that authority shall be exercised within the parameters of the Chief Justice’s Emergency Directives, this Order, and other administrative orders entered by the court.
- C. The undersigned is responsible for the Superior Court calendars and shall use his best efforts to prevent overcrowding in superior court matters and addressing overcrowding when it occurs. While the District Attorney retains calendaring authority, that authority shall be exercised within the parameters of the Chief Justice’s Emergency Directives, this order, and other administrative orders entered by the court.
- D. Despite the best of planning, overcrowding may still occur in courthouse spaces. If overcrowding occurs in the courtroom, the presiding judge has the immediate authority and responsibility to see that crowds are dispersed to comply with the maximum capacities provided herein. If overcrowding occurs in the lobbies or other public spaces of the courthouse, the bailiffs have the immediate authority and responsibility to see that crowds are dispersed to comply with the maximum capacities provided herein. Bailiffs, when practicable, should consult with the presiding judge, the Chief District Court Judge or the undersigned regarding any issues involving the execution of this responsibility.
- E. Any disputes regarding the appropriate action to address overcrowding should be brought to the attention of the undersigned Senior Resident Superior Court Judge to resolve.
- F. Everyone is permitted to wear facemasks and other personal protective equipment in the courthouse.

- G. All judicial branch personnel assigned to a courtroom for more than thirty minutes shall have a facemask made available prior to the session of court. Anyone seeking a facemask may request the same from their hiring superior or the undersigned.
- H. Requests from the public for facemasks or other PPE shall be accommodated if resources are made available in reasonable quantities to supply both courthouse employees and the public.
- VI. Emergency Directive 14 implementation: The Clerk may require that filing be submitted using a secure drop box or require that access to public records be by appointment only during limited hours.
- VII. Emergency Directive 15 implementation: Attorneys and litigants are encouraged to submit filings by mail to the greatest extent possible.
- VIII. Emergency Directive 16 implementation: The undersigned is working with the county to explore possible venues to conduct jury trials if seeking a location outside of our courthouse is needed. Any recommendations regarding possible venues would be appreciated and should be submitted in writing to the undersigned.
- IX. Other Requirements, Recommendations or Announcements:
  - A. Writs should be limited to those that are necessary to protect due process rights. First appearances and advisements of those incarcerated in other facilities should be done via video conference by the Senior Resident Superior Court Judge, the Chief District Court Judge, or their designees when possible. Alternatively, the Senior Resident Superior Court Judge or Chief District Court Judge may arrange for a colleague in the jurisdiction where the defendant is located to complete the first appearance or advisement. If none of these options are available, then the inmate should be brought into our jail via a writ. The District Attorney's Office should provide as much notice as possible to the Senior Resident Superior Court Judge or Chief District Court Judge before issuing a writ.
  - B. Prior to transferring an inmate to Central Regional Hospital in Butner or some similar institution, the Sheriff's office should inform the undersigned of the proposed transport. The undersigned shall contact the institution to see if a competency exam can be properly done via video conference in lieu of transport.
  - C. Except as necessary to protect due process rights, attorney-client consultations with inmates in the Cabarrus County Jail should be by video during the pandemic.



If counsel needs to confer with inmates in other jails or prisons, counsel should first contact the facility to see if a video or phone visitation can be arranged. If this is unsuccessful, counsel should contact the Chief District Court Judge or the Senior Resident Judge to seek assistance.

- D. Discovery in criminal cases should be provided through the DAS system to the greatest extent possible. Defense counsel, if not currently enrolled, should immediately submit an application for approval to the Administrative Office of the Courts.
- E. Attorneys and the public are encouraged to use online services to address traffic cases. The site can be found here:  
<https://www3.nccourts.org/onlineservices/menu.sp>
- F. Defendants and anyone interested in following a case are encouraged to participate in the Court Date Notification program, which can be found here: <https://www3.nccourts.org/onlineservices/notifications/menu.sp>
- G. Unless later directed to appear by the presiding judge, the Senior Resident Judge or Chief District Court Judge, adults over 65 years, those with underlying health conditions such as heart disease, lung disease, diabetes, with a weakened immune system, those that are pregnant, as well as those who are ill or who have recently been exposed to COVID-19 are:
  - 1. Not required to report for jury duty and may have their service deferred by calling the jury clerk at 704-262-5652 or by email at [pamela.a.varnadore@nccourts.org](mailto:pamela.a.varnadore@nccourts.org). They need not appear on the day of service but should seek to be deferred by phone or email during their assigned week of their service.
  - 2. Not required to appear in superior court or district court as Plaintiffs, Defendants or witnesses (including law enforcement officer witnesses) provided that they give timely notice by calling the Clerk at 704-262-5500 or by having counsel report the same to the presiding judge on the day the matter is scheduled for court. While this order is in effect, it is not necessary to provide a doctor's note to be excused with prior notice. Notice provided by parties after the close of court on the day the matter is scheduled will be handled on a case-by-case basis by the presiding judge and a doctor's note may be required.
  - 3. Not required to appear as counsel provided they have given timely notice to the Court and opposing counsel prior to the day the matter is scheduled. In emergency situations, reasonable

notice should be provided considering all of the circumstances then existing.

4. Any dispute regarding whether someone needs to appear who fits into one of the above-referenced categories shall be resolved by the Senior Resident Superior Court Judge for superior court cases and the Chief District Court Judge for district court cases.

H. Water pitchers shall not be provided in the courtrooms.

I. Photocopy signatures are sufficient for strike orders, bond modifications, Plea Transcripts, Informations, and other similar documents. Attorneys are encouraged to email the same instead of delivering them in person.

J. Attorneys and other persons who do not have business in a courthouse should not enter the courthouse, and those who do have business in the courthouse should not prolong their visits once their business has concluded. Emergency Directive 4.

K. The Court will continue to consult with the Cabarrus Health Alliance regarding best practices. Any recommendations from courthouse personnel, counsel, law enforcement, or the public is welcomed and should be submitted in writing to the undersigned.

IT IS SO ORDERED and this order shall remain in effect as long as the Chief Justice's Emergency Directives remain in effect or until modified by this Court.

This the 29<sup>th</sup> day of May 2020.

A handwritten signature in dark ink, appearing to read "Martin B. McGee", written over a horizontal line.

Martin B. McGee  
Senior Resident Superior Court Judge  
Cabarrus County (19A)